**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 251 OF 2019

Swarnakiri Manikandan s/o. Retnapandian,
Age 47 years, Occu. Business,
R/o. Arunachalam Stores, Kothuval Street,
Chalai, Thiruvananthapuram (Kerala). **....Applicant.**

Versus

1. The State of Maharashtra
Through Police Station Shrigonda,
Dist. A'nagar in Crime No. I-255/2018.

2. Satish s/o. Shrimal Pokharana
Age 52 years, Occu. Business,
R/o. Kalkai Chowk, Shrigonda,
Tq. Shrigonda, Dist. Ahmednagar. **....Respondents.**

Mr. Sachin S. Panale, Advocate for applicant.

Mr. A.S. Shinde, APP for respondent No.1/State.

Mr. M.R. Sonawane, Advocate for respondent No. 2.

**CORAM : T.V. NALAWADE AND
K.K. SONAWANE, JJ.**
DATED : 21/06/2019.

JUDGMENT :- [PER T.V. NALAWADE, J.]

1) Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2) The proceeding is filed under section 482 of Criminal Procedure Code ('Cr.P.C.' for short) for relief of quashing of C.R. No. 255/2018 registered with Shrigonda Police Station, Tahsil Shrigonda,

District Ahmednagar for the offences punishable under sections 420, 506 r/w. 34 of Indian Penal Code ('IPC' for short). The crime is registered on the basis of report given by one Satish Pokharana, who is businessman and who is doing business in Shrigonda. According to him, he purchases agricultural produces like onion from farmers and sells that commodity on commission to merchants. According to him, from December 2016 to 10.3.2017 he had supplied onion to Arunachalam Stores/Traders, Trivendram, State Kerala of present applicant and the value of onion was around 24.44 lakh. It is contended that as the purchase price was not given, he had sent his son Satish to Kerala to collect money from the present applicant. It is contended that on 7.7.2017 the applicant gave threat on phone and said that the matter needs to be settled by them otherwise he would not allow Satish to return from Kerala. It is contended that the applicant had said that as per the record he was in dues of only Rs.8 lakh and not Rs.24.24 lakh. It is contended that in view of the aforesaid threat, the first informant settled the dispute and accepted cheques of Rs. 8 lakh in lieu of amount due to him. On the date of F.I.R., which was given on 5.6.2018, seven cheques were encashed. The submissions made show that after registration of crime, the 8th cheque was encashed and entire amount of Rs.8 lakh is received by the first informant. It is the contention of first informant that as the amount of Rs.24.24 lakh was due, the applicant needs to pay

Rs.17.24 lakh and as this amount is not yet given and as under threat, the aforesaid settlement was obtained, offence is committed by the applicant. In view of the nature of allegations, the crime is registered for the offences punishable under sections 420, 504 and 34 of IPC.

3) The learned counsel for applicant submitted that the dispute is of civil nature and if any amount is due on the basis of record, the dispute needs to be taken to Civil Court where the Civil Court will decide the amount due. He submitted that the circumstance that the matter was settled and 8 cheques of the amount of Rs.8 lakh were given and those cheques came to be encashed show that there was settlement of dispute. He submitted that the case of the first informant that on 7.7.2017 threat was given and under threat the settlement was obtained does not appear to be probable in nature as the report was not given to police immediately and it was given on 6.6.2018, about one year after the so called incident.

4) Though the first informant has produced some record like photocopies of the bills, it is the case of applicant that the amount which was due is already paid and as there was some dispute with regard to the amount, the settlement took place and

remaining amount was given by cheques. Thus, there are circumstances to show that there is dispute in respect of the amount due from the applicant to the first informant and that is in respect of some transactions of supply of onion. The learned counsel for first informant submitted that the applicant is in the habit of deceiving the suppliers and in the past, he had deceived other concern of one Shobha Roham and she had filed Special Civil Suit No. 24/2014 against the present applicant. Copy of the judgment in that matter is produced and it shows that decree of Rs.36.68 lakh is given in favour of that lady against the present applicant. That circumstance cannot help the first informant in the present matter to show that the applicant had deceived the said lady and he has deceived the first informant of the present matter also.

5) The aforesaid discussion shows that there is dispute of purely civil nature and apparently it was settled also. If the first informant is not satisfied with the settlement, he needs to take the dispute to the Civil Court. The case of coercion, threat also needs to be proved in Civil Court in such cases. There is no whisper about the delay caused in giving the F.I.R. in the present matter and no plausible explanation was given when the query was made in that regard by this Court.

6) The learned counsel for the first informant placed reliance on some observations made by this Court in the decision of **Criminal Application No. 797/2011 [Kamleshkumar s/o. Jayantibhai Patel Vs. The State of Maharashtra] decided on 18.3.2015**. The facts of that case were totally different. In view of the facts of the present matter and as the dispute is apparently of civil nature, this Court holds that relief needs to be given to the applicant. In the result, the application is allowed. Relief is granted to the applicant in terms of prayer clause 'B'. Rule is made absolute in those terms.

[K.K. SONAWANE, J.] **[T.V. NALAWADE, J.]**

ssc/